

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Capital Investment Funding,)	Civil Action No.: 6:12-3401-MGL-JDA
)	
	Plaintiff,)
)	
v.)	<u>ORDER AND OPINION</u>
)	
Arthur Field, et al.,)	
)	
Defendants.)	
)	

Plaintiff Capital Investment Funding (“Plaintiff”), brought this action pursuant to 18 U.S.C. §1961, *et seq.* (ECF No. 1.) In accordance with 8 U.S.C. § 636(b) and Local Civil Rule 73.02(B), D.S.C., this matter was referred to United States Magistrate Judge Jacquelyn D. Austin for pre-trial handling and a Report and Recommendation (“Report”). On August 23, 2013, Defendant Nathan Holbrooks (“Defendant”), proceeding *pro se*, filed a motion to dismiss. (ECF No. 77.) Plaintiff filed an opposition on May 9, 2013. (ECF No. 112.)

On August 23, 2013, Magistrate Judge Austin issued a Report recommending that Defendant’s motion to dismiss be denied. (ECF No. 369.) The Magistrate Judge advised the parties of the procedures and requirements for filing objections to the Report and Recommendation and the serious consequences if they failed to do so. (ECF No. 369-1.) Neither Plaintiff nor Defendant filed any objections and the time for doing so expired on September 9, 2013.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a *de novo* determination of any portion of the Report and

Recommendation of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. See 28 U.S.C. § 636(b). The Court reviews the Report and Recommendation only for clear error in the absence of an objection. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”) (citation omitted).

After reviewing the motions and responses, the record, and the Report and Recommendation of the Magistrate Judge, the Court finds no clear error. Accordingly, the Court adopts and incorporates the Report and Recommendation (ECF No. 369) by reference into this order. It is therefore ORDERED that Defendant’s motion to dismiss is DENIED.

IT IS SO ORDERED.

s/Mary G. Lewis
United States District Judge

October 24, 2013
Spartanburg, South Carolina